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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,241	02/18/2004	Richard Alan Oleson	BU129/0BU27-U	5216
24350	7590	09/27/2004	EXAMINER	
STITES & HARBISON, PLLC 400 W MARKET ST SUITE 1800 LOUISVILLE, KY 40202-3352			LINDSEY, RODNEY M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,241

Applicant(s)

OLESON, RICHARD ALAN

Examiner

Rodney M. Lindsey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,6,9,10,15,17 and 18 is/are rejected.
- 7) ☒ Claim(s) 2-5,7,8,11-14 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on page 10, line 20 “inner” it appears should be --outer-- and “24” it appears should be --22--.

Appropriate correction is required.

Claim Objections

2. Claims 6 and 7 are objected to because of the following informalities: on lines 1, 2 of claim 6 “a a” it appears should be --a-- and in claim 7, line 7 “the vertical adjustment mechanism” has no antecedent basis and it appears should read --the adjustment mechanism--.
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 is confusing as to how the “inner ring” can be in a cavity formed by the “inner ring”.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3765

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Raschke.

With respect to claim 10 note the shell/hardhat (see column 2, line 38 and Figure 7), headband 34, suspension/straps 18 and adjusting means 30, 36, 36a for adjusting the vertical position of the headband relative to the shell. With respect to claim 15 note the adjusting mechanism at 44, 48.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raschke in view of Webb. With respect to claim 1 note the shell/hardhat (see column 2, line 38 and Figure 7), suspension/straps 18 and headband 34 adjustable vertically relative to the shell by means 30, 36, 36a. Raschke does not teach an inner ring secured to the shell and to the suspension. Webb teaches old the use of an inner ring 12 secured to a shell 11 and to suspension 25. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the helmet of Raschke with the inner ring 12 of Webb to achieve the advantage of spacing the headband from the shell to reduce the energy of impacts to the helmet transmitted to the head. With respect to claim 6 note the adjusting mechanism at 44, 48 of Raschke.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raschke in view of Webb as applied to claim 1 above, and further in view of Barthold et al. Raschke does not teach the use of an inner shell. Barthold et al. teach old the use of an inner shell 14. It would have

Art Unit: 3765

been obvious to one of ordinary skill in the art at the time of the invention to provide the helmet of Raschke with the inner shell 14 of Barthold et al. to achieve the advantage of enhancing the capacity of the helmet to absorb the energy of an impact to the helmet.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raschke in view of Barthold et al. Raschke does not teach the use of an inner shell. Barthold et al. teach old the use of an inner shell 14. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the helmet of Raschke with the inner shell 14 of Barthold et al. to achieve the advantage of enhancing the capacity of the helmet to absorb the energy of an impact to the helmet.

Allowable Subject Matter

11. Claims 2-5, 7, 8, 11-14 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

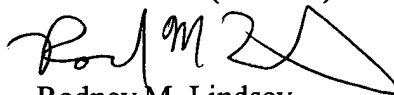
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the vertically adjustable bands of Austin '754, Austin '304, Gilbert, Erb and Burns et al, the inner ring constructions of Cox and Tatum and the adjustment mechanism of Legendre.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (703) 305-7818. The examiner can normally be reached on M-F (8:30-5:00).

Art Unit: 3765

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Rod M 2', is written over the printed name of Rodney M. Lindsey.

Rodney M. Lindsey
Primary Examiner
Art Unit 3765

rml